

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

RONNIE GREENE, ET AL ,

Plaintiffs,

v.

DSNF STAFF, ET AL.,

Defendants.

3 09 0583

No. 3:09mc0058

JUDGE HAYNES

ORDER

Before the Court is a *pro se* prisoner complaint filed under 42 U.S.C. § 1983. Inmates Ronald Greene and Brandon Transue, both prisoners in the Lois M. DeBerry Special Needs Facility (DSNF) in Nashville, and former DSNF inmate William D. Ratcliffe, Jr., are the Plaintiffs to this action. However, only Plaintiff Greene submitted an application to proceed *in forma pauperis*.

From a review of Plaintiff Greene's application to proceed *in forma pauperis*, it appears that he is unable to pay the filing fee. Therefore, pursuant to 28 U.S.C. § 1915(b)(4), the Clerk will **FILE** the complaint *in forma pauperis*. 28 U.S.C. § 1915(a).

For the reasons explained in the memorandum entered contemporaneously herewith, Plaintiffs Greene and Transue are each assessed one hundred seventy-five dollars (\$175.00), their *pro rata* share of the three hundred fifty dollar (\$350.00) civil filing fee.¹ Pursuant to 28 U.S.C. §§ 1915(b)(1)(A) and (B), the custodian of Plaintiff Greene's and Transue's inmate trust fund accounts at the institution where they now reside is directed to submit to the Clerk of Court, as an initial payment, whichever is the greater of:

- (a) twenty percent (20%) of the average monthly deposits to Plaintiff Greene's and Transue's inmate trust fund accounts; **or**

¹ Plaintiff Ratcliffe is no longer incarcerated. Therefore, the filing fee withholding provision of the Prison Litigation Reform Act (PLRA) does not apply to him.

(b) twenty percent (20%) of the average monthly balance in Plaintiff Greene's and Transue's inmate trust fund accounts for the prior six (6) months

Thereafter, the custodian shall submit twenty percent (20%) of Plaintiff Greene's and Transue's preceding monthly income, or income credited to their inmate trust fund accounts for the preceding month, but only when such monthly income exceeds ten dollars (\$10.00). Such payments shall continue until the \$350.00 filing fee has been paid in full to the Clerk of Court as prescribed by 28 U.S.C. § 1914(a) 28 U.S.C. § 1915(b)(2)

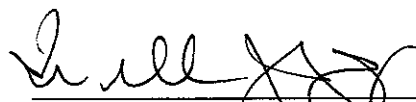
For the reasons explained in the accompanying memorandum, the claims of Plaintiffs William D. Ratcliffe, Jr. and Brandon Transue are **DISMISSED WITHOUT PREJUDICE**. Plaintiff Ronnie Greene has stated a claim and the Clerk shall issue process for the named Defendants, who shall file a response to Greene's complaint. An appeal from the judgment rendered herein by Plaintiffs Ratcliffe and Transue would **NOT** be taken in good faith. Therefore, Plaintiffs Ratcliffe and Transue are **NOT** certified to pursue an appeal from this judgment *in forma pauperis* 28 U.S.C. § 1915(a)(3); *Coppedge v. United States*, 369 U.S. 438, 444-46 (1962). Nevertheless, should Plaintiffs file a notice of appeal, they either must pay the Clerk of Court the full four hundred fifty-five dollar (\$455.00) appellate filing fee, or submit individual applications to proceed *in forma pauperis*.

The Clerk is instructed to forward a copy of this order to the Warden at DSNF to ensure that the custodian of Plaintiff Greene's and Transue's inmate trust fund accounts complies with the portion of the PLRA that pertains to the payment of filing fees. Should Plaintiff Transue be transferred from their present place of confinement, the custodian of their inmate trust fund accounts shall ensure that a copy of this order follows them to their new place of confinement. All payments made pursuant to this order shall be forwarded to the Clerk of Court for the Middle District of

Tennessee.

It is so **ORDERED**.

ENTERED this the 24th day of June, 2009.



William J. Haynes, Jr.
United States District Judge